IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10830 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

HEMANGINI MAHENDRABHAI PATEL

Versus

DEAN GOVT. MEDICAL COLLEGE

Appearance:

1. Special Civil Application No. 10830 of 2001

MR MANISH R BHATT for Petitioner No. 1

Mr.K.P.Raval, learned AGP

for Respondents No. 1,3

MR MUKUND M DESAI for Respondent No. 2

CORAM : MR.JUSTICE D.K.TRIVEDI

Date of decision: 07/02/2002

ORAL JUDGEMENT

1. In this matter rule was issued as per order dated 26.12.2001 and notice regarding interim relief was made

returnable on 8.1.2002. Accordingly the matter was listed before me today and on considering the submission made before me by the respective counsel appearing in the matter and by consent of the learned counsel appearing for the parties, the petition is heard.

2. During hearing Mr.Bhatt appearing for the petitioner has taken me through the petition and the documents attached thereto as well as the affidavit filed by Dr.N.C.Shah, Dean. Government Medical College, Surat dated 25.1.2002 and the affidavit of H.M.Patel, Incharge Registrar of respondent No.2 dated 29.12.2001. He has also taken me through relevant rules, namely, P.G.Rule (Medical Admission). It is his contention that looking to the facts of the present case, though the petitioner has completed internship as per rules and as per provisional certificate issued by Dean and though the petitioner was called for interview considering her name in the merit list, she was orally informed on the date of interview, namely, on 22.10.2001 that she will not be considered for admission to PG course and accordingly petitioner has issued legal notice to the respondent authority on 27.10.2001 and in reply to the same, the petitioner has received order in the form of communication from Dean, Faculty of Medicine, South Gujarat University, Surat and Dean, Government Medical College,Surat dated 2.11.2001 wherein the petitioner was not considered for admission by College Council and P.G.Admission Committee on the ground that the petitioner has not completed internship on the day when the interview was fixed, namely, on 18.8.2001. Accordingly petitioner has challenged the said communication by filing this petition.

3. Mr.Bhatt, appearing for the petitioner, has while taking me through the petition, highlighted that on getting marksheet for the final year, namely, 3rd MBBS Examination held in June 2000,the petitioner was declared fail as per mark sheet dated 1.8.2000. Subsequently, a fresh marksheet was issued by the University authority declaring the petitioner as passed 3rd year MBBS Examination as per marksheet dated 22.8.2000. The internship i.e. compulsory rotating internship house manship started from 24.8.2000 and the respondent no.1 has issued provisional internship competition certificate for P.G.Application on 26/27-7-2001, which is Annexure "B" to this petition to enable the petitioner to make an application for admission to PG course. Accordingly petitioner had applied for PG Course by making application on 30.7.2001. As per Schedule the interview was to be held for selecting the candidates for admission

to PG Course on 18.8.2001 and as intimated in the letter dated 2.11.2001 under the signature of Dean, Faculty of Medicine, South Gujarat University, Surat and Dean, Government Medical College,Surat it shows that though the interview was kept on 18.8.2001, the said interview was postponed for further date due to unavoidable reason. The authority has accordingly considered that the petitioner ought to have completed internship on the date of first interview, which was kept on 18.8.2001 and the authority has, therefore, considered that the petitioner has not completed internship and, therefore, she was not considered for admission to PG Course. It is the contention of the petitioner that in fact petitioner had already completed her internship on 23.8.2001 and admittedly when the interview was arranged on 22.10.2001,the petitioner has already completed the internship. Accordingly Mr.Bhatt has contended that the authority has wrongly denied admission to the petitioner in PG course.

4. Mr.K.P.Raval, learned AGP, has contended while taking me through the affidavit of Dr.Shah that the petitioner has not completed her internship on the day on which the interview was fixed, namely, on 18.8.2001 and accordingly petitioner was not entitled to get admission in PG Course.

5. Eligibility criteria as per PG Rule (Medical Admission) reads as under:-

"A) Eligibility criteria:

I. Clinical subjects:

To be eligible for admission to the course for the degree M.D./M.S./Diploma in Clinical subjects;

The Candidate:

(a) Must have passed Bachelor of Medicine and Bachelor of Surgery Examination of this University or any other college and University of State of Gujarat and recognised by M.C.I.

(b) Shall have completed his compulsory rotation housemanship (internship) period not more than four years after completion of internship and have registered under the Gujarat State Medical Council.

(c) Candidate having not more than three attempts in final M.B.B.S. Examination will only be eligible for admission to P.G.Degree Diploma registration.

(d) Candidates from University other than in Gujarat are not eligible to apply."

6. During hearing Mr.Desai has contended that the reason for not considering the petitioner to be eligible for PG course is that the day on which the interview was fixed i.e. on 18.8.2001, the petitioner has not completed required internship. During submission, I inquired from Mr.Desai how many students were found not eligible for admission on the ground that on the first day of interview the candidate had not completed internship. In reply to my query Mr.Desai, on getting instructions from the authority, has submitted that only the petitioner was the candidate, who has not completed internship on the first day of interview, namely, on 18.8.2001.

7. As found, the petitioner was declared successful in the 3rd year MBBS Examination when she has received the fresh marksheet on 22.8.2000 wherein she was declared pass and the internship i.e. compulsory rotating internship housemanship was started from 24.8.2000. The Provisional Certificate was issued by the respondent No.1 on 26/27-7-2001 for the purpose of enabling the petitioner to make application for PG Course and accordingly the petitioner had applied for the said course on 30.7.2001.Admittedly on 18.8.2001 for one reason or the other, the respondent authority could not proceed with the interview for selection for admission to PG course. The petitioner has completed the said course on 23.7.2001 and the certificate was also furnished. It is also an admitted fact that name of the petitioner was on the merit list, which was issued on 1.10.2001. Even the next date of interview, namely, 11.10.2001 was also postponed. Interview was held on 22.10.2001. As found, the petitioner has completed the internship course on 23.7.2001 and admittedly on 22.10.2001,when the interview was fixed, she had completed said course and accordingly the decision of the authority dated 2.11.2001 is not proper. The Provisional Certificate also supports the case of the petitioner, which is issued by respondent No.1.

8. Considering the rules, it is difficult for this court to agree with the decision taken by the authority that the petitioner was not eligible for admission as the petitioner has not completed the internship on 18.8.2001. Accordingly the petitioner has made out a case and the

petitioner is entitled to get admission in PG course and accordingly the respondent authority is required to consider the case of the petitioner for admission in PG course. Accordingly respondent - authority is directed to decide the application of the petitioner for admission to PG course, as early as possible. Accordingly the communication dated 2.11.2001 is quashed and set aside. The petition is allowed. Rule is made absolute. However, there will be no order as to costs.

(D.K.Trivedi,J)

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